

Chapter 58

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. Weapons

Sec. 58-1. Discharge of firearms.
Secs. 58-2 - 58-10. Reserved.

Article II. Alarms and Alarm Systems

Division 1. False Alarms

Sec. 58-11. Purpose.
Sec. 58-12. Violations.
Sec. 58-13. Responsibilities of occupant.
Sec. 58-14. Penalty.
Sec. 58-15. Documentation and notification.
Sec. 58-16. Definitions.
Secs. 58-17 - 58-30. Reserved.

Article III. Minors

Division 1. Curfew

Sec. 58-31. Definitions.
Sec. 58-32. Offenses.
Sec. 58-33. Defenses.
Sec. 58-34. Enforcement procedure.
Sec. 58-35. Penalty.
Sec. 58-36. Triennial review.

Secs. 58-37 - 58-49. Reserved

Article IV. Synthetic Substance and Devices

Sec. 58-50. Prohibition.
Sec. 58-51. Definitions.
Sec. 58-52. Sale, offer, gift, display, or possession.
Sec. 58-53. Use or possession of ingestion devices.
Sec. 58-54. Penalty.

Secs. 58-55 - 58-59. Reserved

Article V. Reselling of Tickets

Sec. 58-60. Definitions.

Sec. 58-61. Prohibition.

Sec. 58-62. Penalty.

ARTICLE I. WEAPONS

Sec. 58-1. Discharge of firearms.

- (a) *Title.* This section shall be known as "The Firearms Discharge Ordinance of the City of Helotes."
- (b) *Definitions.* As used in this section:
 - Firearm* means any instrument used in the propulsion of pellet, shot, slug, or bullet by the action of gunpowder exploded or released within it.
- (c) *Unlawful discharge.* It shall be unlawful to discharge a firearm within or into the corporate limits of the city.
- (d) *Exceptions.* The following discharges are exempted from subsection (c) of this section:
 - (1) Discharge by law enforcement officers in the lawful performance of their duties; and
 - (2) Discharge for lawful defense/protection of one's self, family, or property provided that the individual who discharges a firearm under such circumstance contacts the city police department and files a report with said department within four hours of discharging said firearm.
- (e) *Penalty.* Violation of this section by any person shall constitute a Class C misdemeanor and upon conviction a violator shall be subject to a fine of not less than \$1.00 and not more than \$500.00.

(Ord. No. 246, §§ 1--5, 10-23-2003)

Secs. 58-2 - 58-10. Reserved.

ARTICLE II. ALARMS AND ALARM SYSTEMS

DIVISION 1. FALSE ALARMS

Sec. 58-11. Purpose.

The city finds that false alarms have adversely affected the city. Public safety is jeopardized by taking police patrol units out of general service, public peace is disturbed by audible alarms, and public funds are wasted. Therefore, the city establishes this division to make it unlawful for a person to sound a false alarm. (Ord. No. 76, §1, 11-14-1991)

Sec. 58-12. Violations.

The city deems it a violation of this division if six false alarms have been sounded in the previous 12-months. It is also a violation of this division if the person responsible for the alarm system does not meet the responsibilities listed in section 58-13. (Ord. No. 76, §2, 11-14-1991)

Sec. 58-13. Responsibilities of occupant.

The occupant of the property on which the alarm is located is the responsible person. He is responsible for:

- (1) Keeping an alarm system in repair and adjustment.

- (2) Supervising family members, employees, and guests to preclude inadvertent or deliberate false alarms.
- (3) Ensuring, when the alarm system is audible beyond the occupant's property, that the system automatically discontinues sounding an audible alarm after a total of 30 minutes, to include automatic resets. After 30 minutes of audible alarm, the audible alarm must shut down until manually reset. The following is explanatory comment:
 - a. The alarm system may sound for five minutes and then automatically reset to sound an alarm an additional five times for five minutes each in the unattended mode. After a sixth alarm sounding, the system must shut itself down until reset manually.
 - b. The alarm system may sound for ten minutes and then automatically reset to sound an alarm an additional three times for ten minutes each in the unattended mode. After a third alarm sounding, the system must shut itself down until reset manually.

(Ord. No. 76, §3, 11-14-1991)

Sec. 58-14. Penalty.

Each violation of this Division, as determined by the Chief of Police, shall be punished by a fine prescribed within the Municipal Fee Schedule, as amended from time to time. (Ord. No. 76, §4, 11-14-1991; Ord. No. 503, §1, 4-11-2013)

Sec. 58-15. Documentation and notification.

The chief of police shall ensure that the occurrence of a false alarm is documented and notification sent to residents. (Ord. No. 76, §5, 11-14-1991)

Sec. 58-16. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm or alarm system means a device or system that transmits a signal intended to summon the police of the city to respond. The term includes an alarm that emits an audible signal on the exterior of a structure. It does not include an alarm designed to alert only the inhabitants within a premises. The term does not include an alarm installed on a vehicle.

False alarm. A false alarm has occurred when the city police, within 30 minutes of the alarm notification, have determined from an inspection of the interior or exterior of the premises that the alarm was false.

(Ord. No. 76, §6, 11-14-1991)

Secs. 58-17 - 58-30. Reserved.

ARTICLE III. MINORS

DIVISION 1. CURFEW

Sec. 58-31. Definitions.

Emergency shall include, but not be limited to, fire, natural disaster, an automobile accident, or obtaining immediate medical care for another person.

Guardian shall mean any person to whom custody of a minor has been given by a court order.

Minor shall mean any person under seventeen (17) years of age and over nine (9) years of age.

Parent shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court-appointed guardian or other person eighteen (18) years of age or older, authorized by the parent, by a court order, or by the court-appointed guardian to have the care and custody of a person.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(Ord. No. 102A, §1, 2-22-2001; Ord. No. 279, § 1, 6-9-2005; Ord. No. 354, §1, 04-24-08; Ord. No. 447, §1, 4-28-2011)

Sec. 58-32. Offenses.

- (a) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive, or ride about in or upon any public place in the City of Helotes between the hours of 12:00 a.m. (Midnight) and 6:00 a.m. on a Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday.
- (b) It shall be unlawful for a minor to purposefully remain, walk, run, stand, drive, or ride about in or upon any public place in the City of Helotes during school days between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday.
- (c) It shall be unlawful for the parent having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in Subsections (a) and (b) hereof.

(Ord. No. 102A, §2, 2-22-2001; Ord. No. 279, §2, 6-9-2005; Ord. No. 354, §1, 04-24-08; Ord. No. 447, §1, 4-28-2011)

Sec. 58-33. Defenses.

It is a defense to prosecution under Section 58-32 of this Division that:

- (a) The minor was accompanied by his or her parent;
- (b) The minor was accompanied by another adult approved by the parents;
- (c) The minor was on an emergency errand;
- (d) The minor was attending a school, government-sponsored, or religious activity or is going to or coming from a school, religious, or government-sponsored activity without detour or stop;

- (e) The minor was engaged in lawful employment or volunteer work at a recognized charity institution or other organization or is going to or coming directly from such activity without detour or stop;
- (f) The minor was on the sidewalk of the place where such minor resides or on the sidewalk of a place where the minor has permission from his/her parent or guardian to be or on the sidewalk of a next-door neighbor not communicating an objection to the police officer;
- (g) The minor was completing an errand directed by his or her parent;
- (h) The minor was in a motor vehicle involved in intrastate or interstate transportation or transportation for which passage through the curfew area is the most direct route;
- (i) The minor was married or had been married or had the disabilities of minority removed in accordance with V.T.C.A. Family Code Chapter 31; and
- (j) With respect to Subsection 58-32 (b) of this Division, that the offense occurred during the scheduled vacation of or on a holiday observed by the school in which the minor is enrolled; or that the minor has graduated from high school or received a high school equivalency certificate; or that the minor has permission to be absent from school or be in a public place from an authorized school official. In the case of a minor being educated in a home school, a parent shall be deemed a school official.

(Ord. No. 102A, §3, 2-22-2001; Ord. No. 279, §3, 6-9-2005, Ord. No. 354, §1, 04-24-08; Ord. No. 447, §1, 4-28-2011)

Sec. 58-34. Enforcement procedure.

- (a) Any police officer, upon finding a minor in violation of Section 58-32 of this Division, shall determine the name and address of the minor and the name and address of his or her parent(s) or guardian(s). The minor's parent(s) or guardian(s) shall be notified and required to pick up the minor, and a warning notice shall be issued to the minor and the parent(s) or guardian(s) of the minor advising them of the fact that the minor was found in violation of this Division and soliciting cooperation in the future.
- (b) Any police officer, upon finding a minor in violation of Section 58-32 of this Division, who has previously been found in violation and issued a warning, as provided for in Subsection (a) herein, shall transfer the case to proper authorities charged with handling such cases under the provisions of V.T.C.A. Family Code Title 3. In addition, a complaint will be filed against the parent(s) or guardian(s) in the Municipal Court for violation of Section 58-32. The Police Department shall file all necessary legal papers, supply all necessary documentation, and provide necessary testimony, as required, for pursuing violations of this Division by either the minor or by any parent or guardian.

(Ord. No. 102A, §4, 2-22-2001; Ord. No. 279, §4, 6-9-2005, Ord. No. 354, §1, 04-24-08; Ord. No. 447, §1, 4-28-2011)

Sec. 58-35. Penalty.

- (a) Any minor violating the provisions of this Division shall be guilty of a Class "C" misdemeanor, as defined in the Texas Penal Code, and shall be dealt with in accordance with the provisions of V.T.C.A. Family Code Title 3.

- (b) A parent or guardian of a minor violating the provisions of this Division shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).
- (c) In assessing punishment for a parent, guardian, or minor, the Municipal Court Judges are encouraged to consider the community service program.

(Ord. No. 102A, §5, 2-22-2001; Ord. No. 279, §5, 6-9-2005, Ord. No. 354, §1, 04-24-08)

Sec. 58-36. Triennial review.

- (a) Within three (3) years of the adoption, modification, or renewal of this Division, the Chief of Police shall review the Division, prepare a written report, and make recommendations to the City Council concerning its effectiveness and continuing need. The report shall review the Division or order's effects on the community and on problems the Division or order was intended to remedy.
- (b) After presentation of the Chief's report to the City Council, as required by Subsection (a) of this Section, the City shall:
 - (1) Make a determination on the need to continue the Division or order; and
 - (2) Abolish, continue, or modify the Division.

(Ord. No. 354, §1, 04-24-08; Ord. No. 447, §1, 4-28-2011)

Secs. 58-37 - 58-49. Reserved.

Article IV. Synthetic Substances and Devices

Section 58-50. Prohibition.

The use, possession, sale, ingestion, or smoking of illegal smoking products and ingestion devices, as hereinafter defined, are prohibited within the City limits of the City of Helotes. The violation of any section provided for herein shall be a strict liability offense which does not require the showing of a culpable mental state. (Ord. No. 446, §1, 03-24-2011)

Section 58-51. Definitions.

Person shall mean an individual, corporation, partnership, wholesaler, retailer, or any licensed or unlicensed business.

Illegal Smoking Product shall mean any substance, whether described as tobacco, herbs, incense, spice, or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following chemicals:

- (a) Salviadivinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- (b) 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol (also known as CP47, 497) and homologues;
- (c) (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chormen-1-ol) (also known as HU-211 or Dexanabinol);
- (d) 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or
- (e) Butyl-3-(1-naphthoyl) indole (also known as JWH-073).

Ingestion Device shall mean equipment, a product, or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including, but not limited to:

- (a) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (b) a water pipe;
- (c) a carburetion tube or device;
- (d) a smoking or carburetion mask;
- (e) a chamber pipe;
- (f) a carburetor pipe;
- (g) an electric pipe;
- (h) an air-driven pipe;
- (i) a chillum;
- (j) a bong; or
- (k) an ice pipe or chiller.

(Ord. No. 446, §1, 03-24-2011)

Section 58-52. Sale, Offer, Gift, Display, or Possession.

It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell, or offer for sale any illegal smoking product. (Ord. No. 446, §1, 03-24-2011)

Section 58-53. Use or Possession of Ingestion Devices.

- (a) It shall be unlawful for any person to use, or possess with intent to use, an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.
- (b) It shall not be an offense under Subsection (a) of this Section for any person to use or possess an ingestion device without the presence (including, but not limited to, trace amounts and/or residue) of an illegal smoking product.
- (c) It shall not be an offense under Subsection (a) of this Section for any person to offer for sale or sell an ingestion device in a retail establishment, provided such ingestion device does not contain the presence (including, but not limited to, trace amounts and/or residue) of an illegal smoking product.

(Ord. No. 446, §1, 03-24-2011)

Section 58-54. Penalty.

That any person, firm, or corporation violating any of the provisions or terms of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00) for each offense, with each and every day of violation deemed to constitute a separate offense. (Ord. No. 446, §1, 03-24-2011)

Sections 58-55 - 58-59. Reserved.

Article V. Reselling of Tickets

Section 58-60. Definitions.

(a) In this Section, the following words or terms shall have the following meaning:

Event shall mean an event of public entertainment or amusement.

Event sponsor shall mean a person (including, but not limited to, an owner, lessee, operator, promoter, or manager of an event or an event site; an organizer of an athletic contest; a team participating in a sporting event; a performer of a concert; a presenter of a program, presentation, lecture, service, or video presentation; a circus or rodeo; an organizer of a religious event; and / or a person or entity holding or owning, whether directly or indirectly, the legal possessory right or interest to use or occupy a main facility) who owns or holds, whether directly or contractually through a delegated license or sublicense from the owner or holder of such right, as distinguished from a ticket purchaser, the right to issue tickets or other admission licenses to the event.

Resell shall mean to sell or offer to sell a ticket or other admission license to an event after such ticket or other admission license has been issued by the event sponsor.

Person shall include any natural being and any association, partnership, entity, or corporation of any type recognized by state or federal law.

Ticket Scalping shall mean the unauthorized reselling of a ticket or other admission license in violation of this Article.

(Ord. No. 453, §1, 8-11-2011)

Section 58-61. Prohibition.

- (a) A person may not resell a ticket or other admission license at a price exceeding its face value to an event on public property or a public street within the City. A person may resell a ticket or other admission license if the person is within a structure for which a certificate of occupancy has been issued or within a private home.
- (b) It is an exception to the application of Subsection (a) above that the person is the event sponsor or is authorized to resell the ticket or other admission license by the event sponsor. Nothing herein shall restrict an event sponsor or person authorized by the event sponsor from selling, reselling, or offering to sell or resell a ticket or other admission license to an event at any price.

(Ord. No. 453, §1, 8-11-2011)

Section 58-62. Penalty.

Any person violating the provisions of this Article shall be guilty of misdemeanor and punished by the imposition of a fine of not less than Twenty-Five, nor more than Five Hundred and No/100 Dollars (\$500.00). Each day that a violation is allowed to continue shall be a separate offense and punished by the imposition of a separate fine. The violation of this Article shall be considered a strict liability offense which does not require proof of a culpable mental state. (Ord. No. 453, §1, 8-11-2011)

Chapters 59 - 61. Reserved.